



10th February 2023 – Issue 399

Ministry of Corporates Affairs vide notification dated February 07, 2023, has provided Extension of Time for filing of 45 company e-Forms and PAS-03 in MCA 21 Version 3.0 without additional fee

- MCA vide notification dated February 07, 2023, has provided Extension of Time for filing of 45 company e-Forms and PAS-03 in MCA 21 Version 3.0 without additional fee.
- Due to change in way of filing in Version-3, including fresh process of registration of users on MCA-21 and process of stabilization of 45 forms launched with effect from 23.01.2023, and after considering various representations, in continuation of General Circular 1/2023 dated 09.01.2023, it has been decided to allow further additional time of 15 days for filing of these forms, without additional fees, to the stakeholders.
- To Further, Form PAS-03 which was closed for filing in Version-2 on 20.01.2023 and launched in Version-3 on 23.01.2023, and whose due dates for filing fall between 20.01.2023 and 06.02.2023, can also be filed without payment of additional fees for a period of 15 days.
- The notification is herein attached.

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Securities Exchange board of India vide circular dated February 03, 2023, has provided Manner of achieving minimum public shareholding (MPS)

- SEBI vide circular dated February 03, 2023, has provided Manner of achieving minimum public shareholding.
- SEBI, vide circular No. SEBI/HO/CFD/CMD/CIR/P/43/2018 dated February 22, 2018 on the captioned subject, had permitted different methods that may be



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used by listed entities to achieve compliance with the minimum public shareholding (MPS) requirements mandated under Rule 19(2)(b) and 19A of the Securities Contracts (Regulation) Rules, 1957 (“SCRR”) read with regulation 38 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”).

- To facilitate listed entities achieve MPS compliance, few of the existing methods have been reviewed and rationalized and two additional methods have been introduced. Accordingly, a listed entity shall adopt any of the following methods in order to achieve compliance with the MPS requirements mandated under rules 19(2)(b) and 19A of the SCRR read with regulation 38 of the LODR Regulations
- The circular is herein attached and effective immediately.

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Securities Exchange board of India vide circular dated February 01, 2023, has notified Transaction in Corporate Bonds through Request for Quote (RFQ) platform by Alternative Investment Funds(AIFs)

- SEBI circular dated February 01, 2023 has notified Transaction in Corporate Bonds through Request for Quote (RFQ) platform by Alternative Investment Funds(AIFs).
- To increase the liquidity on RFQ platform of stock exchanges and to enhance the transparency and disclosure pertaining to trading in secondary market in Corporate Bonds, SEBI has, in past, prescribed stipulations for transactions on RFQ platform by Mutual Funds, Portfolio Management Services and Stock Brokers.
- Further, in terms of SEBI Circular SEBI/HO/DDHS/DDHS_Div1/P/CIR/2022/142 dated October 19, 2022, quotes on RFQ platform can be



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placed to an identified counterparty (i.e., 'one-to-one' mode) or to all the participants (i.e., 'one-to-many' mode). In this regard, it is clarified that all transactions in Corporate Bonds wherein AIF(s) is on both sides of the trade shall be executed through RFQ platform in 'one-to-one' mode. However, any transaction entered by an AIF in Corporate Bonds in 'one-to-many' mode which gets executed with another AIF, shall be counted in 'one-to-many' mode and not in 'one-to-one' mode.

- The aforesaid requirement shall come into force with effect from April 01, 2023.
- The circular is herein attached.

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Securities Exchange board of India vide circular dated January 05, 2022, has provided Limited relaxation –dispatch of physical copies of financial statements etc. –Regulation 58 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

- SEBI vide circular dated January 05, 2022, has provided Limited relaxation – dispatch of physical copies of financial statements etc. –Regulation 58 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.
- SEBI vide Circular no. SEBI/HO/CFD/CMD1/CIR/P/2020/79 dated May 12, 2020 had inter-alia, relaxed certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations) related to dispatch of hard copy of Annual Report to debenture holders, pursuant to relaxations granted by the Ministry of Corporate Affairs (MCA). Thereafter, vide Circular no. SEBI/HO/DDHS/P/CIR/2022/0063 dated May 13, 2022, the said relaxations were extended till December 31, 2022.



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- MCA vide Circular dated December 28, 2022 has, inter-alia, now extended the relaxations from dispatching of physical copies of financial statements due in the year 2023 (i.e., till September 30, 2023).
- It has been decided to relax up to September 30, 2023, the requirements of Regulation 58 (1)(b) of the Listing Regulations which prescribes that an entity with listed non-convertible securities shall send a hard copy of statement containing the salient features of all the documents, as specified in Section 136 of Companies Act, 2013 and rules made thereunder to those holders of non-convertible securities who have not registered their email address(es) either with the listed entity or with any depository.
- The circular is herein attached.

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NCLAT Delhi's decision on Withdrawal Application U/s 12A of the Insolvency and Bankruptcy Code after Approval of Resolution Plan by CoC

The NCLAT Principal Bench comprising of Justice Ashok Bhushan (Chairperson) and Mr. Barun Mitra (Technical Member), has held that once a Resolution Plan has been approved by the Committee of Creditors, a withdrawal application under Section 12A of the Insolvency and Bankruptcy Code, 2016 cannot be entertained. Approval of a Resolution Plan by the CoC prohibits the Resolution Applicant to modify or withdraw from the Plan, the same embargo is placed on the Committee of Creditors from changing its stand.

BRIEF FACTS OF THE CASE

M/s Pawan Doot Estate Pvt. Ltd. (hereinafter "Corporate Debtor") was admitted into



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Corporate Insolvency Resolution Process vide Order dated 10.05.2019 by the Ld. Adjudicating Authority. M/s Mehar Footwear Pvt. Ltd. (“Successful Resolution Applicant”) had submitted a Resolution Plan for the Corporate Debtor on the 10th meeting of the Committee of Creditors (hereinafter “CoC”) which was subsequently approved by the CoC on 17.01.2020. The Resolution Professional thereafter filed an application before the Adjudicating Authority of approval of Resolution Plan on 04.02.2020. The ex-promoter of the corporate debtor on 11.08.2022 submitted a Settlement Proposal under Section 12A of IBC before the Financial Creditors and thereafter filed an application before the Adjudicating Authority seeking inter alia to keep in abeyance the application for approval of resolution plan. The Adjudicating Authority rejected the application of the Ex-promoter vide Order dated 23.11.2022 which was challenged by the ex-promoter before NCLAT.

The NCLAT accordingly raised the following question for consideration:

“Whether the approval of the Resolution Plan by Committee of Creditors under Section 30, sub-section (4) and filing an Application before the Adjudicating Authority for its approval, any Settlement Proposal under Section 12A (filed by Ex-Promoter) can be entertained deferring consideration of approval of Resolution Plan by the Adjudicating Authority?”

NCLAT’s Judgment

The NCLAT held that under Regulation 30A of CIRP Regulations, an application under Section 12a for withdrawal can be made after issuance of ‘Expression of Interest’ only when sufficient reasons exist to justify the withdrawal. In the event Section 12A application was contemplated to be filed even after approval of the Resolution Plan by the CoC, the Regulations 30A(2)(a) and 30A(2)(b) ought to have included the expenses both under Regulations 33 and 34. Non-mention of Resolution Professional costs in Regulation 30A(2) supports the contention that Section 12A



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Application cannot be filed after approval of Resolution Plan by the CoC. The NCLAT placing reliance on “Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Limited and Anr.” [Civil Appeal No. 3224 of 2020] held that the Adjudicating Authority had found no reason to keep the approval of resolution plan in abeyance and no error was committed in rejection of the ex-promoter’s application. The NCLAT thus, upheld the decision of Adjudicating Authority and dismissed the Appeal.

Case Title: Hem Singh Bharana v. M/s Pawan Doot Estate Pvt. Ltd. & Ors.

Case No: Company Appeal (AT) (Insolvency) No. 1481 of 2022

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